IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

Bail Appl..No. 5335 of 2007()

CRIME NO. 276/07 OF PUNALUR POLICE STATION

PETITIONER : 6TH ACCUSED:

SOLOMAN, S/O.SHEELAS, CHARUVILA
PUTHEN VEEDU, ECHAMKUZHY MANALIL P.O.

BY ADV. SRI.R.ARUN RAJ

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY SUB INSPECTOR OF POLICE, PUNALUR POLICE STATION, CRIME NO.276 OF 2007 OF PUNALUR POLICE STATION, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5335 of 2007

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Dated this the 24th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioner is the 6th accused. Altogether there are six accused persons. All of them, including the petitioner, are named in the F.I.R. There are three injured persons. One of them suffered fracture of ulna. The accused face allegations, inter alia, under Section 326 r/w. 149 I.P.C. All others were arrested and enlarged on bail. The petitioner has not been arrested. He apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The investigation is almost complete. In these circumstances directions under Section 438 Cr.P.C. may be issued in favour of the petitioner, prays the learned counsel.

3. The learned Prosecutor opposes the application. There are absolutely no features in this case, which would justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C., submits the Prosecutor.

4. Having considered all the relevant inputs, I find force in the stand taken by the learned Prosecutor. I am unable to find any circumstance which would justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. This I am satisfied is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioner appears before the Investigating Officer or the learned Magistrate having jurisdiction and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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